IN THE HIGH COURT OF JUDICATURE AT BILASPUR

Writ Petition No. 194/ 2001-.

PETITIONERS : 1. Chhattish -Garh Fabricators and Furniture Nirmata Sangh, an Association of Fabricators and Furniture Manufacturers, in the State of Chhattisgarh have applied for registration before the Registrar, Firm & Societies through its Presiden Prem Chand Jain, son of A.C. Jain, resident of Budha Para, Raipur, Chhattisgarh.

P. R. No. 52310
Presented by Shri A.S. Sharma
dated 24/3/01

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24/3/2001
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2. Ajay Jajodiya, son of B.P. Jajodiya, Proprietor, Ajay Industries, a Manufacutring "Unit, resident of Marwadi Line, Bilaspur, as also Sec tary,Chhattisgarh Fabricat and Furniture Nirmata San Bilaspur,Chhattisgarh.

3. Ashok Sharma, son of Shri P. Sharma, Proprietor, Perfect Steel Industries, Jagdalpur, as also Treasurer, Chhattisga Fabricators and Furniture Nir- mata Sangh,Jagdalpur,C'Garh.

V E R S U S

RESPONDENTS 1. State of Chhattisgarh through Secretary, Department of Trib Welfare,Mantralaya, Raipur, Chhattisgarh.

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2. Director / Commissioner, Directorate, of Industries, Government of Chhattisgarh, Raipur, Chhattisgarh.

3. State of Chhattisgarh through Secretary, Department of Commerce and Industries, Rural Industries and Public Enterprises, Mantralaya, Raipur.

4. Managing Director, Chhattisgarh Rajya Audyogik Vikas Nigam, Raipur, C'Garh.

5. Vinayak Agencies, Jagdalpur, Chhattisgarh.

6. Om Enterprises, Raipur, Chhattisgarh.

7. M/s Agrawal Industries, Jagdalpur, Chhattisgarh.

8. M/s Kamal Steel Industries Ltd. Jagdalpur, Chhattisgarh.

9. M/s Kamal Steel Industries, Frazerpur, Jagdalpur, Chhattisgarh.

10. M/s Bhatia Udyog, Audyogik Kshetra Bhilai, district Durg, Chhattisgarh.

11. M/s Vindhyavasni Steel Industries, Tifra, Bilaspur, Chhattisgarh.

12. M/s Goyal Industrial Corporation, MG Road, Raipur, Chhattisgarh.

13. M/s Droliya Enterprises, Gurunanak Chowk, Raipur, Chhattisgarh.

14. M/s Garg Fabrication, Raigarh, C'Garh.

15. M/s Ankit Industries, Rajnandgaon, Chhattisgarh.

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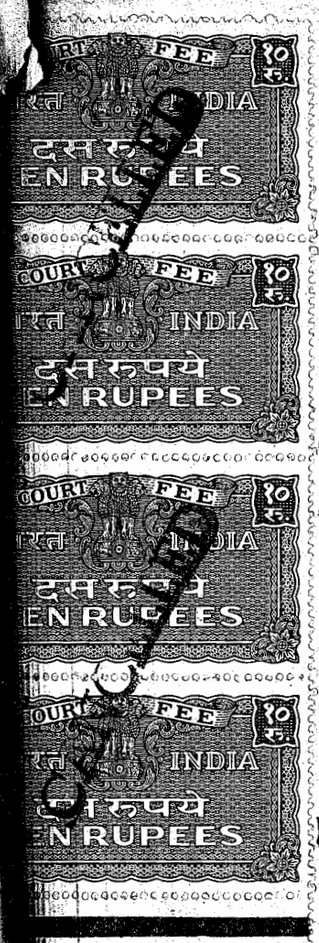

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16. M/s D.K.Steel Industries,Bilaspur,C'Garh.

17. M/s Vishwakarma Industries,Bilaspur, Chhattisgarh.

18. M/s Ankur Industries,Raipur, Chhattisgarh.

19. M/s Arihant Industries,Durg,Chhattisgarh.

20. M/s Royal Steel Industries,Station Road, Raipur,Chhattisgarh.

21. M/s Swastik Steel Industries ,Nadapara, Rajim. Chhattisgarh.

22. M/s K.D.Industries, Near New Ganj Mandi, Rajnandgaon,Chhattisgarh.

23. M/s Om Enterprises,Kota,Raipur,Chhattisgarh.

Respondents 5 to 23 are through respondent no.4 i.e. Managing Director,C'Garh Rajya Audyogik Vikas NigamRaipur.

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI,MANDAMUS, PROHIBITION AND FOR OTHER SUITABLE WRIT/WRITS, ORDER / ORDERS, DIRECTION/ DIRECTIONS TO THE RESPONDENTS.

(U38) A.F.R

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 394/2001

Chhattisgarh Fabricators and Furniture Nirmata Sangh and others.

Versus

State of Chhattisgarh and others.

Per Fakhruddin J -

O R D E R

The present petition has been filed by the petitioners alleging that the respondents acted illegally in placing the purchase orders for furniture and other items to be supplied to the schools run by the tribal department, State of Chhattisgarh. Petitioners have joined State of Chhattisgarh, Director/Commissioner Industries as respondents. However, respondents no.5 to 23 in the petition are the private respondents who are manufacturers of the furniture and are alleged to have been given the supply orders.

2. Shri Manindra Shrivastava learned counsel appearing for the petitioners submitted that the respondents by adopting an illegal procedure have obliged certain fabricators and manufacturers by placing maximum orders of purchase of furniture and other items to be supplied to the schools run by the tribal department, State of Chhattisgarh. It is further submitted by the petitioners that while placing the purchase orders, no uniform procedure has been adopted and all the established rules and norms have been violated.

3. Respondents no. 6,10,12,13,14,15,18 to 23 have filed their return jointly. However, respondent no.7 has filed the return separately.

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4. Shri Prashant Mishra, learned counsel appearing for respondents 6,10,12,13,14,15,18 to 23 has submitted in his return that the petitioners have approached this Court straightway without making representation before the competent authority. He further submitted that the procedure and the norms adopted by the respondents are not arbitrary and it is the policy matter to be decided at the level of the State government. He further submitted that there are 150 registered suppliers out of which 103 have been granted work orders.

5. Shri O.P.Agrawal, learned counsel appearing for respondent no.7 has vehemently opposing the submissions advanced by the petitioners, submitted that the petitioners are unregistered body and as such has no locus stand to file the petition. He further submitted that the purchase orders have been given only on the basis of units, their desirability to do the work and on the basis of present infrastructure to fulfil the requirement as mentioned in the work order.

6. Shri Ravindra Shrivastava, learned Advocate General and Dr.N.K.Shukla,learned Dy.Advocate General appearing for the State of Chhattisgarh submitted that an Enquiry Committee has been constituted under the chairmanship of Shri Dharamjit Singh,MLA, Mr.Mahesh Tiwari and Mr.Manturam Pawar. The said committee has been constituted by the State Legislative Assembly. It is further submitted that since the Inquiry Committee has been formed by the Vidhan Sabha and the inquiry report has already been submitted by the Committee which is still under consideration, the decision has to be taken by the Vidhan Sabha in accordance with law.

7. It is pertinent to refer to the relief sought by the petitioners which are reproduced as under :-

> I) It is, therefore, prayed that this Hon'ble Court be pleased to direct the respondents to produce the entire record concerning the case of the petitioners, files, resolution, letter and decisions taken, leading to issuance of supply orders, for the perusal of this Hon'ble Court.

II) This Hon'ble Court may further be pleased to quash the order/decisions/proceedings dt.12.1.2001 by issuing a writ in the nature of certiorari in respect of respondents 5 to 23 of this petition.

III) This Hon'ble Court may further be pleased to issue a writ in the nature of mandamus restraining the respondents from taking any action towards supply of items pursuant to impugned decision, proceedings and so-called purchase orders dt.12.1.2001.

IV) This Hon'ble Court may further be pleased to issue a writ in the nature of mandamus commanding the respondents to evolve and act upon just, fair and reasonable procedure and ultimately for purchase of the said items.

V) This Hon'ble Court may be pleased to grant any other relief deemed fit and proper to this Hon'ble Court including the cost of the petition."

8. Learned Advocate General and learned Dy.Advocate General appearing for the State submitted that the Vidhan Sabha and the State government are seized of the matter and would consider the findings as well as the remedial measures and the procedure adopted for purchase of the said items if required.

9. Learned counsel appearing for the private respondents pointed out that this Court on 28.3.2001 has passed the interim order which reads as under :-

> "The private respondents shall supply to the extent of registered capacity until further orders. The State Government shall also accept only to the extent of respective capacities until further orders."

10. Shri Prashant Mishra, learned counsel appearing for the private respondents submitted that in pursuance of the interim order passed by this Hon'ble Court the private respondents have made the supplies of furnitures and other items on the basis of their registered capacity and the same has

been accepted to that extent only. It is further submitted that the payments towards the furniture already supplied has not yet been made.

11. Having thus considered the facts and circumstances of the case and after hearing the counsel for the parties as noted above, since the inquiry committee has already been constituted under the Chairmanship of Dharamjit Singh MLA along-with Shri Mahesh Tiwari and Shri Manturam Pawar by the Vidhan Sabha and the committee so constituted has submitted its report which is under consideration by the Government and the House which is seized of the matter,we do not think that any case of issuing of writ or direction in exercise of extra ordinary jurisdiction under Article 226/227 of the Constitution of India is made out.

12. So far as the contention made by Shri Prashant Mishra,learned counsel for the private respondents regarding supply of furniture made in pursuance of the interim order passed by this court is concerned,the matter will be examined and the question of payment shall be considered as expeditiously as possible by the Competent Authority in accordance with law.

13. In view of the directions and observations made above this petition is disposed of at this stage.

14. Parties to bear their own costs as incurred.

Sd/-
Chief Justice

Sd/-
Fakhruddin
Judge

J.